

**SENATE JOURNAL
61ST LEGISLATURE
TWENTY-FOURTH LEGISLATIVE DAY**

Helena, Montana
February 2, 2009

Senate Chambers
State Capitol

Senate convened at 1:00 p.m. President Story presiding. Invocation by Pastor Keith Johnson . Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Erickson, Schmidt, and Shockley, excused. Quorum present.

BILLS AND JOURNALS:

2/2/2009

Correctly printed: **SB 80, SB 81, SB 148, SB 208, SB 229, SB 235, SB 256, SB 275, SB 322, SB 323, SB 324, SB 325, SB 326, SB 327, SB 328, SJR 3, SJR 7, SJR 15.**

Correctly engrossed: **SB 63, SB 90, SB 227, SJR 9.**

LEGISLATIVE ADMINISTRATION (Curtiss, Chairman):

2/2/2009

MR. PRESIDENT:

We, your committee on Legislative Administration recommend that employment of the following attaches of the Senate be terminated as of 1:00 a.m., Saturday, January 31, 2009:

TITLE

NAME

Pages:

Michelle Carey, Missoula
Stephanie Courville, Ronan
Adam Cook, Missoula
Harlan Reidmohr, Helena
Konnor Scally, Martinsdale
Bridger Mahlum, Big Fork

and recommend that the following attaches of the Senate be employed as of 8:00 a.m., Monday, February 2, 2009:

TITLE

NAME

Pages:

Faith Grover, Helena
Taylor Billing, Jordan
Kari Rice, Helena
Charles French, Paradise
Brice Grotbo, Shelby
Morgan Boharski, Kalispell
Madison Brooke, Bozeman

Report Adopted.

MESSAGES FROM THE OTHER HOUSE

House bills passed and transmitted to the Senate for concurrence:

1/31/2009

HB 21, introduced by Dickenson

HB 30, introduced by Wilmer

HB 118, introduced by Klock

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HB 242, introduced by McAlpin

HB 244, introduced by Ankney

HB 245, introduced by Ankney

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 329, introduced by Barkus, Bales, B. Beck, Blasdel, Brenden, Esp, Hinkle, Perry, Sonju, Vance, referred to Highways and Transportation.

SB 330, introduced by Moss, referred to Public Health, Welfare and Safety.

SB 331, introduced by Balyeat, Bales, Barkus, Debby Barrett, Brenden, R. Brown, T. Brown, Curtiss, Cohenour, Ebinger, Erickson, Essmann, Gebhardt, Hamlett, Hawk, Hinkle, Jackson, Jent, Laslovich, Lewis, McGee, Perry, Phillips, Steinbeisser, J. Tropila, Wanzenried, Windy Boy, Zinke, referred to Judiciary.

SB 332, introduced by Balyeat, Gebhardt, Hinkle, Jackson, Steinbeisser, referred to Judiciary.

SB 333, introduced by Balyeat, Barkus, Debby Barrett, Brenden, R. Brown, T. Brown, Curtiss, Essmann, Gebhardt, Hinkle, Jackson, Steinbeisser, Zinke, referred to Judiciary.

SB 334, introduced by Balyeat, Brenden, Curtiss, Gebhardt, Hinkle, Jackson, Murphy, Ripley, Steinbeisser, referred to Judiciary.

SB 335, introduced by Balyeat, Barkus, R. Brown, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Perry, Ripley, Steinbeisser, Windy Boy, referred to Business, Labor, and Economic Affairs.

SB 336, introduced by Balyeat, T. Brown, Curtiss, Gebhardt, Hinkle, Jackson, Steinbeisser, Story, Windy Boy, referred to Fish and Game.

SB 337, introduced by Brenden, Bales, Barkus, Debby Barrett, T. Brown, Curtiss, Gebhardt, Hinkle, Kasten, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, referred to Agriculture, Livestock and Irrigation.

SB 338, introduced by Essmann, referred to Judiciary.

SB 339, introduced by Hinkle, Barkus, Curtiss, Jackson, referred to Business, Labor, and Economic Affairs.

SB 340, introduced by Laslovich, referred to Judiciary.

SB 341, introduced by Laslovich, referred to Judiciary.

SB 342, introduced by Essmann, O'Hara, referred to Taxation.

The following Senate joint resolution was introduced, read first time, and referred to committee:

SJR 18, introduced by Moss, Driscoll, referred to State Administration.

The following Senate resolution was introduced, read first time, and referred to committee:

SR 2, introduced by Shockley, referred to State Administration.

The following House bill was introduced, read first time, and referred to committee:

HB 13, introduced by Hunter, referred to Finance and Claims.

Senator Schmidt present.

**SECOND READING OF BILLS
(COMMITTEE OF THE WHOLE)**

Senator Peterson moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator McGee in the chair.

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Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

SB 18 - Senator Wanzenried moved **SB 18** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Erickson, Shockley.

Total 2

SB 64 - Senator Laible moved **SB 64** do pass.

SB 64 - Senator Laible made a **substitute motion** that **SB 64** pass consideration for the day. Motion carried.

SB 113 - Senator Keane moved **SB 113** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 47

Nays: Balyeat.

Total 1

Absent or not voting: None.

Total 0

Excused: Erickson, Shockley.

Total 2

SB 184 - Senator Balyeat moved **SB 184** do pass.

Senator Balyeat moved **SB 184**, second reading copy, be amended as follows:

1. Title, page 1, line 9.

Strike: "A DELAYED"

Insert: "AN IMMEDIATE"

2. Page 2, line 13.

Strike: "March 1, 2010"

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Insert: "on passage and approval"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 42

Nays: Esp, Juneau, Kaufmann, Keane, Stewart-Peregoy, Windy Boy.
Total 6

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SB 184 - Senator Balyeat moved **SB 184**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.
Total 44

Nays: Juneau, Kaufmann, Keane, Windy Boy.
Total 4

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SB 197 - Senator Laslovich moved **SB 197** do pass.

Senator Laslovich moved **SB 197**, second reading copy, be amended as follows:

1. Page 1, line 11 through line 16.

Following: "**costs.**" on line 11

Strike: subsection (1) in its entirety

Insert: "(1) When a transcript of the testimony and proceedings of a trial or hearing or a part of a trial or hearing is requested, a court reporter shall furnish the transcript to the requester with all reasonable diligence. The court reporter shall submit an invoice with the transcript when it is furnished. The court reporter may withhold delivery of the transcript until the transcription fee is paid or satisfactory arrangement for payment is made."

2. Page 2, line 4.

Following: "costs"

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Strike: "in the Montana administrative register"

Insert: "on the judicial branch website"

3. Page 2, line 17.

Following: "by the"

Strike: "state"

Following: "office of"

Insert: "state"

Amendment adopted as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Erickson, Shockley.

Total 2

SB 197 - Senator Laslovich moved **SB 197**, as amended, do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.

Total 48

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Erickson, Shockley.

Total 2

SB 202 - Senator Hinkle moved **SB 202** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Zinke, Mr. President.

Total 44

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Nays: Balyeat, Curtiss, Keane, Windy Boy.
Total 4

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SB 214 - Senator Steinbeisser moved **SB 214** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 46

Nays: R. Brown, Kaufmann.
Total 2

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SB 247 - Senator Black moved **SB 247** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 45

Nays: Balyeat, R. Brown, Keane.
Total 3

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SB 252 - Senator Cooney moved **SB 252** do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 47

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Nays: Curtiss.
Total 1

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SJR 11 - Senator Brueggeman moved **SJR 11** do pass. Motion carried as follows:

Yeas: Bales, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 44

Nays: Balyeat, Esp, Hinkle, Tutvedt.
Total 4

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

Senator Peterson moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Story in the chair. Chairman McGee moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 80 received the following vote:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Lewis, McGee, Perry, Peterson, Shockley, Mr. President.
Total 20

Nays: Branae, R. Brown, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 30

Paired: Barkus, Shockley, Aye; Erickson, Laslovich, No.

Absent or not voting: None.
Total 0

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Excused: None.
Total 0

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 80** will progress as though it had received the majority vote.

SB 81 received the following vote:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Gebhardt, Hinkle, Jackson, Lewis, McGee, Perry, Peterson, Ripley, Shockley, Mr. President.
Total 21

Nays: Branae, Cooney, Erickson, Essmann, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Moss, Murphy, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke.
Total 29

Paired: Barkus, Shockley, Aye; Erickson, Laslovich, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

Pursuant to Senate Rule S50-100(2) on bills proposing an amendment to the Montana Constitution, **SB 81** will progress as though it had received the majority vote.

SB 148 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, J. Tropila, M. Tropila, Tutvedt, Williams, Zinke, Mr. President.
Total 41

Nays: Gallus, Juneau, Kaufmann, Keane, Stewart-Peregoy, Wanzenried, Windy Boy.
Total 7

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SB 164 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gebhardt, Hinkle, Jackson, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.

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Total 27

Nays: Branae, Cooney, Erickson, Gallus, Gillan, Hamlett, Hansen, Hawks, Jent, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 23

Paired: Essmann, Shockley, Aye; Erickson, Laslovich, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

SB 256 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SJR 7 passed as follows:

Yeas: Bales, Balyeat, Barkus, Barrett, Black, Brenden, R. Brown, T. Brown, Brueggeman, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hinkle, Jackson, Jent, Laible, Lewis, McGee, Murphy, Perry, Peterson, Ripley, Shockley, Steinbeisser, Tutvedt, Zinke, Mr. President.
Total 32

Nays: Branae, Cooney, Erickson, Hawks, Juneau, Kaufmann, Keane, Larsen, Laslovich, Moss, Schmidt, Squires, Stewart-Peregoy, J. Tropila, M. Tropila, Wanzenried, Williams, Windy Boy.
Total 18

Paired: Barkus, Shockley, Aye; Erickson, Laslovich, No.

Absent or not voting: None.
Total 0

Excused: None.
Total 0

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SJR 15 passed as follows:

Balyeat, Barkus, Barrett, Black, Branae, Brenden, R. Brown, T. Brown, Brueggeman, Cooney, Curtiss, Esp, Essmann, Gallus, Gebhardt, Gillan, Hamlett, Hansen, Hawks, Hinkle, Jackson, Jent, Juneau, Kaufmann, Keane, Laible, Larsen, Laslovich, Lewis, McGee, Moss, Murphy, Perry, Peterson, Ripley, Schmidt, Squires, Steinbeisser, Stewart-Peregoy, J. Tropila, M. Tropila, Tutvedt, Wanzenried, Williams, Windy Boy, Zinke, Mr. President.
Total 48

Nays: None.
Total 0

Absent or not voting: None.
Total 0

Excused: Erickson, Shockley.
Total 2

SPECIAL ORDERS OF THE DAY

Senator R. Brown introduced the Pages for the week of February 2-7, 2009.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Senator Williams announced the Democrats would caucus upon adjournment.

Senator Peterson announced the Republicans would caucus upon adjournment.

Majority Leader Peterson moved that the Senate adjourn until 1:00 p.m., Tuesday, February 3, 2009. Motion carried.

Senate adjourned at 2:19 p.m.

MARILYN MILLER
Secretary of the Senate

ROBERT STORY
President of the Senate